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**TRANSNATIONAL POWER AND TRANSLOCAL GOVERNANCE:  
THE POLITICS OF CORPORATE RESPONSIBILITY**

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Keywords:	Conflict, corporate social responsibility, governance, power, multinational corporations, marginalized stakeholders

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3 **TRANSNATIONAL POWER AND TRANSLOCAL GOVERNANCE: THE**  
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5 **POLITICS OF CORPORATE RESPONSIBILITY**  
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10 **Abstract**

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12 In this paper we provide a critical analysis of the politics of corporate social responsibility  
13  
14 (CSR). We argue that CSR is a strategy that enables multinational corporations (MNCs) to  
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16 exercise power in the global political economy. Using the global extractive industries as a  
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18 context we focus on conflicts between communities, the state and MNCs that arise due to the  
19  
20 negative social and environmental impacts of mining and extraction. In particular we analyze  
21  
22 the role of political CSR and multi-stakeholder initiatives (MSIs) in managing conflicts and  
23  
24 argue that these initiatives cannot take into account the needs of vulnerable stakeholders. We  
25  
26 argue that power asymmetries between key actors in the political economy can diminish the  
27  
28 welfare of communities impacted by extraction. We identify a number of governance  
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30 challenges that arise as a result of these power asymmetries and develop a translocal  
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32 governance framework from the perspective of vulnerable stakeholders that can enable a  
33  
34 more progressive approach to societal governance of MNCs.  
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40 **Keywords:** corporate social responsibility; power; multinational corporations, governance;  
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42 marginalized stakeholders  
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## TRANSNATIONAL POWER AND TRANSLOCAL GOVERNANCE: THE POLITICS OF CORPORATE RESPONSIBILITY

Consider the following scenario: A large multinational corporation X in the oil and gas industry has been operating in a developing country Y since the 1950s. Over the years corporation X maintained close ties with a variety of political regimes that have ruled country Y including monarchs, dictators, military regimes, local militias and more recently, democratically elected governments. Corporation X's revenues and profits have increased substantially over the years and it is also a key contributor to country Y's economy by providing employment, tax payments and royalties. In addition, Corporation X also has a well-developed corporate social responsibility (CSR) program: it has contributed to building roads, schools and hospitals and is actively involved in a number of philanthropic ventures. It routinely publishes environmental and social reports and is a member of several multi-stakeholder initiatives (MSIs) involving non-governmental organizations (NGOs) and community groups. Corporation X has won numerous national and international awards for its CSR practices. It is a signatory to the United Nations Global Compact, the world's largest multi-stakeholder CSR initiative involving 9269 companies and 164 countries, and is also a founder member of the multi-stakeholder initiative Extractive Industries Transparency Initiative (EITI), a global standard that promotes revenue transparency and accountability in the extractive sector.

Despite the company's community engagement efforts and substantial financial contributions aimed at promoting community welfare, the local Indigenous communities that live near the corporation's operating facilities have been engaged in conflicts, often violent at times, with both the corporation and the government ever since operations began. The communities have seen their source of livelihoods disappear because of environmental damage to their lands and waters. Oil extraction has also resulted in increased social

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3 dislocation and an escalation of violent conflict between communities in the region. Despite  
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5 more than 50 years of oil extraction worth billions of dollars, the community's economic,  
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7 social and environmental conditions have worsened and they continue to live in dire poverty.  
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9 Economic development, which the government and the corporation promised extraction  
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11 would deliver, continues to elude these communities. In recent years armed groups emerged  
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13 in the region and carried out a series of attacks on Corporation X's facilities and personnel.  
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15 The corporation responded by increasing security personnel, and the government by  
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17 deploying the army to quell protests resulting in the killing of 20 unarmed villagers and  
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19 sparking a cycle of violence that continues to this day.  
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23 While the above example is hypothetical there is ample evidence that conflicts  
24  
25 between extractive industries and communities impacted by their activity is widely  
26  
27 prevalent<sup>1</sup>. For example the Environmental Justice Atlas (EJOLT, 2015), a comprehensive  
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29 online platform database that documents and catalogs environmental conflicts all over the  
30  
31 world, lists a total of 2,019 ongoing conflicts over social and environmental impacts of  
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33 projects such as mining, forestry, dams, transportation, fracking, drilling, exploration, waste  
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35 management, ore processing and others. In resource extraction projects alone there are 788  
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37 cases of ongoing conflicts in more than 60 countries.  
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41 The question of why the industry finds itself in conflict with the communities in  
42  
43 which it operates despite its stakeholder engagement and CSR activities has not been  
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45 satisfactorily addressed in the literature. In this paper we address this puzzle by critically  
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47 analyzing theoretical insights from the emerging literature on political CSR. To what extent  
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52 <sup>1</sup> The geographical scope of conflicts involving the extractive industries is remarkable. Countries include  
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54 Angola, Argentina, Bangladesh, Brazil, Cambodia, Cameroon, Chile, China, Colombia, Costa Rica, Côte  
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56 d'Ivoire, Democratic Republic of Congo, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon,  
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58 Ghana, Guatemala, Honduras, India, Indonesia, Jamaica, Kenya, Laos, Liberia, Madagascar, Malawi, Mali,  
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60 Malaysia, Mexico, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Pakistan, Panama, Papua New Guinea,  
Paraguay, Peru, Philippines, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Thailand, Tibet, Trinidad &  
Tobago, Tunisia, Turkey, Uganda, Uruguay, Venezuela, Vietnam, Zambia, Zimbabwe (EJOLT, 2015). And this  
is a partial list.

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3 can political CSR address the needs of vulnerable stakeholders? What are the power  
4 dynamics that determine the political economy of natural resource extraction? What  
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7 governance challenges arise and how should the extractive industry be governed to prevent  
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9 conflicts? These are some of the questions that we will explore in the paper, as a way of  
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11 illuminating how and why CSR needs to become more responsive to marginalized  
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13 stakeholders.  
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16 One central argument runs through our paper: we argue that received knowledge  
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18 about political CSR does not adequately take into account the interests of marginalized and  
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20 vulnerable stakeholder groups. Political CSR as a process and extension of deliberative  
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22 democracy has been described as ‘a movement of the corporation into the political sphere in  
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24 order to respond to environmental and social challenges such as human rights, global  
25  
26 warming and deforestation’ (Scherer and Palazzo, 2011: 910). It is our contention that  
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28 attempts to fill the ‘regulatory vacuum in global governance’ through political CSR (Scherer  
29  
30 and Palazzo, 2011: 899) will not serve the interests of marginalized communities in the  
31  
32 developing regions of the world and may even diminish their welfare. Basically we argue  
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34 that CSR does not travel well outside the Anglo-American context in which it was created  
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36 and several key assumptions of CSR and stakeholder theory begin to unravel due to the very  
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38 different cultural, social and political environments in non-European regions. The paper also  
39  
40 has an explicit normative goal: to develop a locally grounded bottom up governance  
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42 framework from the perspective of marginalized populations that can address the gaps that  
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44 arise from a top down political CSR governance approach.  
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50 Our contribution is twofold: first, we contribute to theoretical development in the  
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52 politicization and political role of corporations, particularly in the emerging area of political  
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54 CSR. While insights from political CSR explicitly acknowledge the political role of  
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56 multinational corporations there is very little analysis of how MNCs and their constituents  
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3 exercise power in the political economy and our paper provides a more sophisticated account  
4 of the dynamics of power in CSR discourse. Second, we extend our critique by developing a  
5 translocal governance framework that has a clear normative justification from the perspective  
6 of marginalized stakeholders. Rather than dwell on how corporations manage stakeholders in  
7 an effort to enhance shareholder welfare by reconciling ‘corporate responses to social misery  
8 with the neoclassical model of the firm’ (Margolis and Walsh, 2003: 280), our approach is to  
9 use the social and economic tensions arising from extractive activities as a starting point for  
10 new theories and research on CSR and governance.  
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21 The paper is structured as follows: first, we provide a brief overview of the extractive  
22 industries, followed by a critical analysis of the extant literature on the political role of  
23 corporations in a globalized world. The paper then discuss the basic assumptions of political  
24 CSR and deliberative democracy and identify the limits of these approaches to solving social  
25 and environmental problems particularly in the developing regions of the world. This  
26 analysis provides the basic elements of a governance framework from the perspectives of  
27 vulnerable stakeholders who continue to be marginalized by political CSR. We conclude by  
28 discussing implications of our framework and providing directions for future research.  
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### 41 **The Business of Extraction**

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43 The global extractive industry is one of the largest in the world with annual revenues  
44 of \$5.4 trillion in 2015, operating in more than 100 countries. Non-renewable mineral  
45 resources play a dominant role in the economies of 81 countries, collectively accounting for a  
46 quarter of world GDP (World Bank, 2016). Six of the 10 largest corporations in the world  
47 belong to the extractive industries based on 2016 revenues.  
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54 The extractive industries also play a key role in the ‘resource curse’ faced by many  
55 countries in the developing world (Ballard and Banks, 2003; IBISWorld, 2013; PWC, 2013).  
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3 More than 3.5 billion people, comprising half the world's population live in resource rich but  
4 cash poor regions. A majority of these regions share some common features: weak rule of  
5 law, weak governmental legitimacy, large power disparities between communities and  
6 business, and the presence of a variety of Indigenous populations. There is a clear pattern  
7 across Africa, the Americas, Asia, Australia and Europe that shows the benefits from  
8 extractive projects are not shared by communities that are most impacted by them (Ballard  
9 and Banks, 2003; Banerjee, 2008; 2011; Rees et al., 2012). In fact, most communities living  
10 in or around extractive sites have seen their sources of livelihood disappear. In the mining  
11 zones of Asia, Latin America and Africa between 35-55% of the population live below the  
12 poverty line despite billions of dollars of revenue generated from extractive activity (PWC,  
13 2013).

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27 Mining conflicts are also on the rise across the world (EJOLT, 2015). Studies of  
28 mining conflicts in Africa, Asia, Latin America and Australia all point to a lack of  
29 participation of affected communities in decision making and negative social, cultural,  
30 economic and environmental impacts as key drivers of conflicts (Banerjee, 2011; Bebbington  
31 et al., 2008; Ehrnström-Fuentes, 2016; Franks et al., 2014). Most of these conflicts involve  
32 violence: a recent report has documented the killings of 908 people ('a vastly underestimated  
33 figure' according to the report) in 35 countries over environmental and land issues between  
34 2002 and 2013 (Global Witness, 2014). Brazil accounts for more than half of these killings.  
35 In Peru alone mining conflicts have increased by 300% during the last 5 years where there  
36 are 149 ongoing disputes involving the extractive industry (Rees et al., 2012). There is also a  
37 well-organized and well-resourced international civil society movement that aims at  
38 promoting more transparency and equity in the extractive sector and several multi-  
39 stakeholder initiatives (MSIs) involving non-state actors have emerged in recent times. While  
40 the extractive industries may represent an 'extreme' case of MNC-community conflicts given  
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3 their significant environmental and social impacts, power dynamics between market, state  
4 and civil society actors provide an ideal context to examine the political role of MNCs in  
5 problematic domains.  
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### 10 11 12 **The Politics of Political CSR**

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14 It is not our purpose to review the vast literature on CSR that goes back nearly 60  
15 years. Instead, we point readers to several comprehensive reviews of the field (see for  
16 example Aguinis and Glavas (2012); Kolk, (2016); Scherer and Palazzo (2011)). The vast  
17 majority of the literature tends to be descriptive and instrumental with a focus on establishing  
18 an empirical relationship between CSR and financial performance. There is a fundamental  
19 unresolved tension between normative and instrumental approaches to CSR. A majority of  
20 CSR research has focused on win-win situations and not much is known about what happens  
21 in lose-win (when integrating the needs of external stakeholders can harm wealth-maximizing  
22 opportunities of firms) or win-lose situations (when corporate wealth maximizing diminishes  
23 social welfare). Moreover, the role of firms in shaping public social or environmental  
24 agendas, their role in disempowering or delegitimizing stakeholders opposed to corporate  
25 activity, their interactions with governmental and non-governmental bodies or power  
26 differentials between firms and marginalized stakeholders cannot adequately be explained by  
27 descriptive and instrumental approaches to CSR.  
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45 In an era of neoliberal globalization where business firms have taken on roles once  
46 the purview of governments, instrumental approaches to CSR become even less relevant. In  
47 order to understand the political role of corporations and its interaction with market, state and  
48 civil society actors and institutions, scholars have developed notions like corporate  
49 citizenship and political CSR (Matten and Crane, 2005; Scherer and Palazzo, 2007, 2011).  
50 Scherer et al. (2016: 276) define political CSR as ‘those responsible business activities that  
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3 turn corporations into political actors, by engaging in public deliberations, collective  
4 decisions, and the provision of public goods or the restriction of public bads in cases where  
5 public authorities are unable or unwilling to fulfill this role'. They point to examples where  
6 corporations contribute to 'different areas of governance' such as public health, education,  
7 social and environmental standards, climate change, corruption and inequality. Political CSR  
8 reflects a general shift in the political economy toward market-based modes of governance  
9 where private corporations become key actors within regulatory systems (Ezzamel and Reed,  
10 2008).

11  
12 The basic normative and theoretical assumptions of political CSR are drawn from  
13 Habermas's work on deliberative democracy (Frynas & Stephens, 2015; Habermas, 1996;  
14 1998; Mäkinen & Kourula, 2012; Scherer, 2017; Whelan, 2012). There is an underlying  
15 assumption in political CSR that a deliberative process of corporate engagement with state  
16 and civil society actors can lead to a more democratic public sphere (Scherer and Palazzo,  
17 2016). However, as Barley (2007) points out corporate political influence can actually  
18 undermine representative democracy because corporations regularly obstruct regulatory  
19 agencies while lobbying governments and international trade bodies for business-friendly  
20 legislation and. In the extractives sector, corporations and their industry associations are  
21 powerful players in both deliberative processes and state politics, often giving them defacto  
22 political authority to negotiate with states and communities impacted by mining.

23  
24 Most corporations in the extractives industries have strong CSR and stakeholder  
25 engagement policies, yet there are many studies that show that needs of local people are not  
26 met, leading to conflicts (Bebbington et al., 2008; Gardner et al., 2012; Kraemer et al., 2013).  
27 Mining companies' engagement with local communities tend to be relegated to 'community  
28 relations' departments without meaningful integration into their core business (Kemp and  
29 Owen, 2013). For instance, in her study of a conflict between the Porgera Joint Venture Gold  
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3 Mine and the Indigenous Ipili, Coumans (2011) found that stakeholder engagement by the  
4 mining corporation (an example of deliberative political CSR) provided legitimacy to the  
5 corporation while undermining the goals and objectives of local actors. 'Experts' brought in  
6 by the corporation (anthropologists and developmental NGOs) to resolve the conflict shaped  
7 CSR solutions that benefited the company while neglecting community concerns about  
8 environmental impacts and human rights abuses. Similarly, an ethnographic study of a  
9 mining conflict in Ecuador revealed how CSR became another source of confrontation and  
10 frustration among communities already impacted negatively by mining (Warnaars, 2012).  
11 The company's strategy of community engagement involved focusing on particular  
12 individuals and regions, capitalizing on existing territorial and community dynamics thus  
13 contributing to the polarization of the conflict. Another study of the impact of CSR policies  
14 of extractive industries in the Peruvian Highlands found no improvements in access to basic  
15 services or improvements in housing conditions and poverty rates (Ticci and Escobal, 2015).  
16 While there were marginal increases in employment due to mining most jobs went to  
17 migrants with little or no opportunities for local populations, leading to increased social  
18 tensions.

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39 In its preoccupation with identifying proper procedures for deliberation, political CSR  
40 can elide the problem of political authority. The creation of a seemingly fair and reasoned  
41 deliberative process still requires political authority to enforce resulting decisions, and this  
42 authority rests in most cases with the state. While stable state systems, the rule of law,  
43 enforceable property rights regimes and a strong civil society are conditions that may exist in  
44 Western democracies they are certainly not universal conditions and therein lies the  
45 fundamental problem of theorizing political CSR using a Western lens to identify problems  
46 and propose solutions. Exporting and imposing deliberative democracy to societies with  
47 deep structural inequalities does not make the process more democratic especially if the  
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3 structural inequalities restrict or deny access to marginalized populations to the deliberative  
4 process. In other words processes might be deliberative without being democratic, which  
5 brings into question the types of legitimacy that deliberative CSR can provide (Young, 2003).  
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10 According to Scherer and Palazzo (2011: 916) political CSR can provide moral  
11 legitimacy for firms because it 'requires the explicit consideration of the legitimacy of  
12 capitalist mechanisms and corporate activities by giving credit to the interests and arguments  
13 of a wide range of constituencies that are affected by the activities of (multinational)  
14 corporations'. The communicative process may well provide firms the basis for moral  
15 legitimacy but the process by which firms in the extractives industries generate moral  
16 legitimacy may be flawed because (1) the inherent practical difficulties, if not impossibility,  
17 of the deliberative process to be completely inclusive, public, and accountable and (2) formal  
18 inclusion of marginalized stakeholders cannot overcome the structural inequalities and biases  
19 that exist in society and these structural inequalities set constraints on the agenda and terms  
20 of any deliberative process (Young, 2003). The moral legitimacy provided by deliberative  
21 CSR allows corporations to pursue their interests while undermining local community  
22 interests. For instance, Kraemer et al.'s (2013) study of a mining conflict in eastern India  
23 showed how the mining corporation was able to undermine community resistance through a  
24 divide-and-rule strategy that isolated groups opposed to mining while rewarding others  
25 through money and gifts as part of their CSR based philanthropic activities.  
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45 Advocates of political CSR argue that the force of norms and ideas can serve as a  
46 countervailing force to corporate power in the political economy. Private regulation like 'soft  
47 laws' and voluntary standards become the norm for enhancing social and environmental  
48 performance of firms. The assumption is that standards and codes of conduct will protect  
49 marginalized populations without any reflexive examination of the consequences of this  
50 approach (Newell, 2005). Voluntary standards have been criticized for enabling firms to use  
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3 deceptive accounting techniques and greenwashing (Frenkel and Scott, 2002; Lantos, 1999)  
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5 and as a practice of self-regulation without sanctions, subject to opportunism. In some cases  
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7 there were no discernible differences in practice between companies that signed up for  
8  
9 voluntary standards and those that did not (King and Lenox, 2000). The Forest Stewardship  
10  
11 Council (FSC), promoted as an ideal model of political CSR is an example of how a focus on  
12  
13 processes that are supposed to promote democratic accountability produced the opposite  
14  
15 outcome: a lack of transparency and accountability that favored powerful stakeholders like  
16  
17 certification bodies, NGOs and corporations while further marginalizing weaker stakeholders  
18  
19 (Edward and Willmott, 2008). Analyzing the evolution of the FSC over the last 20 years,  
20  
21 Moog et al. (2015) found that the new forestry standards neither transformed commercial  
22  
23 forestry standards nor did it reverse the trend of tropical deforestation. Power imbalances  
24  
25 between market actors and NGOs along with weak state regulation were the reasons cited for  
26  
27 the limited effectiveness of forestry standards. It is difficult to see how these voluntary  
28  
29 standards and multi-stakeholder initiatives can 'help rebalance the power between  
30  
31 governments and corporations' (Scherer et al., 2016: 284). Deliberative processes may seek  
32  
33 out a plurality of voices but they do not always provide spaces for dissent and conflict. As a  
34  
35 result, 'consensus' becomes more of a hegemonic accommodation to dominant interests. The  
36  
37 'deliberative' processes of consultation in mining conflicts do not reveal the forced nature of  
38  
39 agreements and disallows the emergence of more collectively based alternatives (Edward and  
40  
41 Willmott, 2008: 425). And therein lies the fundamental weakness in political CSR: its lack of  
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43 self-reflexivity arising from a failure to account for power asymmetries, as we will see in the  
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45 next section.  
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### 51 52 53 54 **Power and Legitimacy in CSR Governance**

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56 Explicit analysis of power in CSR has not received sufficient attention in the literature  
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3 barring a few exceptions (Banerjee, 2008; Fleming and Jones, 2013; Gond et al., 2016). In  
4  
5 their analysis of power and politics in CSR, Gond and Nyberg (2017) describe how ‘classical  
6  
7 and market-centred CSR’ reflects an ‘institutional/structural’ approach to power where  
8  
9 legitimacy is created through dominant actors and institutions in national contexts. Political  
10  
11 CSR scholars following Habermas’s notion of ‘postnational constellations’ focus on the  
12  
13 normative basis of power, in particular how power creates legitimacy through deliberative  
14  
15 processes, which become the basis of global governance.  
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18  
19 Institutional, material and discursive power defines the political economy and  
20  
21 governance of resource extraction. For instance, supranational institutions like the World  
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23 Bank and International Monetary Fund provide loans to developing countries for extractive  
24  
25 projects under conditions of ‘structural adjustment’, which basically means providing access  
26  
27 to mineral resources to mining corporations. A 1992 report by the World Bank entitled  
28  
29 ‘Strategy for African Mining’ examined the reasons for the ‘demise of Africa’s mining  
30  
31 performance’ and proposed a ‘strategy for accelerating mining sector growth’ that involved  
32  
33 ‘complete privatization of the sector’ (World Bank, 1992). As Hilson (2012) argues, the  
34  
35 financial terms of World Bank funded extractive projects in developing countries coupled  
36  
37 with state corruption and corporate collusion with state officials help explain why countries  
38  
39 with thriving extractive industries continue to rank at the bottom of the United Nations  
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41 Human Development Index.  
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45 Structural power of transnational mining corporations derives from their wealth and  
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47 annual revenues that often surpasses the annual GDP of the countries in which they operate.  
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49 For example Royal Dutch Shell, which has a long and troubled history of oil extraction in the  
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51 Niger Delta ranked 27<sup>th</sup> on the list of the World’s Top 175 Economic Entities in 2010 with  
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53 annual revenues of \$378 billion, whereas their host country Nigeria ranked 56<sup>th</sup> on the list  
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55 with annual GDP of \$193 billion (Hilson, 2012). Such wide economic disparities between  
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3 host countries and mining corporations tend to consolidate the bargaining power of  
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5 transnational corporations (Shapiro et al., 2007).  
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8 Finally, the discursive power of CSR serves to further corporate interests by enabling  
9  
10 the discursive construction of legitimacy, which allows extractive industries to operate  
11  
12 despite their negative environmental and social impacts (Ehrnström-Fuentes, 2016;  
13  
14 Joutsenvirta and Vaara, 2015). Industry codes and standards that emerge from CSR discourse  
15  
16 provide more legitimacy to market actors rather than to vulnerable populations impacted by  
17  
18 mining, who generally lack institutional and material power (Lindsay, 2011). As Utting  
19  
20 (2005: 383) points out the 'capacity of big business to modify its discourse is often  
21  
22 considerably greater than its capacity to improve its social and environmental performance'.  
23  
24 In the political sphere the structural power of corporations enables them to establish economic  
25  
26 rules of the game. Their relational power through their relationships with key state and non-  
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28 state actors in the political economy also enables them to establish political rules that  
29  
30 determine the process by which economic rules are made (Clegg et al., 2006; Marti et al.,  
31  
32 2008). These practices are discursive in the sense that they constitute and are constituted by  
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34 knowledge appearing as specific institutional and organizational practices. They become  
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36 discursive because they reproduce knowledge through practices that are made possible by the  
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38 structural assumptions of that knowledge - 'a system of practices that sustains beliefs not a  
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40 system of beliefs that sustain practices' (Clegg and Haugaard, 2009: 436).  
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46 In developing a theory of political CSR, Scherer and Palazzo (2011) and in a later  
47  
48 formulation (Scherer et al., 2016) conceptualize power mainly in relation to the declining  
49  
50 ability of states to regulate multinational corporations. Their conceptualization of politics as  
51  
52 'public deliberations, collective decisions and the provision of public goods' (Scherer et al.,  
53  
54 2016: 276) without taking into account that all of these are outcomes of power relations is  
55  
56 problematic. While they acknowledge that the 'political power' of non-state institutions like  
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3 NGOs and corporations has increased in recent years there is no attempt to analyze what  
4  
5 outcomes for society result from this shift. Instead, following Habermas, they argue that  
6  
7 moral legitimacy that arises from a communicative process does not rely as much on the  
8  
9 power of the actors involved in the process but rather on procedural design. A 'better design'  
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11 of communicative processes would somehow 'neutralize' power differences, subjecting  
12  
13 corporations to new forms of democratic control and providing a more democratic framework  
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15 for global governance.  
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19 Such an approach to power is patently unsatisfactory because it elides relationships  
20  
21 between power, legitimacy and authority. One cannot assume legitimacy always exists  
22  
23 without domination (Clegg and Haugaard, 2009). Legitimacy produced by communicative  
24  
25 rationality – the basis of Habermasian deliberative democracy - is based on particular forms  
26  
27 of successful power, which remain 'outside' of political CSR discourses without an  
28  
29 acknowledgment that power is constitutive of social relations (Mouffe, 1999: 753). The  
30  
31 universalization of particular forms of legitimacy through deliberation and consensus  
32  
33 marginalizes legitimate struggles of vulnerable populations because it does not acknowledge  
34  
35 a pluralism of values and rationalities. As Mouffe (1999: 756) argues 'every consensus exists  
36  
37 as a temporary result of a provisional hegemony, as a stabilization of power, and that it  
38  
39 always entails some form of exclusion. The idea that power could be dissolved through a  
40  
41 rational debate and that legitimacy could be based on pure rationality are illusions, which can  
42  
43 endanger democratic institutions'. Deliberative PCSR in its quest for consensus elides the  
44  
45 implications of the link between legitimacy and power by implicitly trusting that deliberation  
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47 will lead to better and more progressive outcomes for all stakeholders.  
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52 In the context of global governance PCSR claims to 'formulate conditions of  
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54 legitimate political will-formation and rule enforcement in particular in contexts where  
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56 governments are absent, corrupt or repressive and where private or civil regulation might be  
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3 the only available forms of regulation' (Scherer et al. 2016: 283). However, such a  
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5 perspective assumes that an absence of regulation implies an absence of power, which is not  
6  
7 the case. In their study of sustainability standards in coffee production Levy et al. (2016:  
8  
9 389) found PCSR practices did not attain the 'Habermasian ideal of public spirited business  
10  
11 participating in an open process of deliberative democracy'. Moreover, a series of  
12  
13 hegemonic accommodations between corporate actors and NGOs transformed the meaning of  
14  
15 sustainability itself from a radical social and environmental vision to more instrumental goals  
16  
17 aligned with corporate interests. As in the case of the Forest Stewardship Council discussed  
18  
19 earlier strategic contestations over sustainability shifted the power from NGOs to corporate  
20  
21 actors. What these deliberative processes do not reveal is the outcomes at the local level:  
22  
23 while the evolution of sustainability standards in coffee production reveals contestations and  
24  
25 accommodations among corporate, state and civil society actors, the process of 'legitimate  
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27 political will-formation' can further marginalize the individual coffee farmer.  
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32 Competing legitimacies are at the root of many conflicts in the extractive industries,  
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34 with various stakeholder groups vying to shape the legitimacy (or illegitimacy) of extractive  
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36 projects (Gond et al, 2016). If legitimacy is the outcome of relations of power then it  
37  
38 becomes important to critically analyze the legitimation processes that are deployed by  
39  
40 market, state and civil society actors. In the context of PCSR the legitimacy of market actors  
41  
42 is enhanced by voluntary standards, codes of conduct and multi-stakeholder initiatives.  
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44 These practices while conferring moral legitimacy to firms are also aimed at generating  
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46 consensus and inclusion, which are the desired outcomes of deliberative processes. However,  
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48 if desired outcomes at local levels are fundamentally different (self- determination or  
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50 autonomy instead of inclusion for example), then the processes that are designed to deliver  
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52 consensus and inclusion can no longer be trusted.  
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56 Take for instance the recent conflict between the mining corporation Vedanta Limited  
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3 and tribal communities in India (Kraemer et al., 2013). The company negotiated a  
4 memorandum of understanding with the state government to construct a bauxite mine in the  
5 Niyamgiri hills in the eastern state of Odisha in India. The area is a sacred site and a source  
6 of livelihood for the Dongria Kandh tribe that has inhabited the region for thousands of years.  
7 The tribals were firmly opposed to the mine from the beginning and refusing all offers of  
8 compensation and rehabilitation started a local resistance movement that soon became a high  
9 profile movement receiving wide national and international media coverage. After more than  
10 a decade of struggle using a variety of direct action tactics, legal challenges and political  
11 pressure, the resistance movement was successful in obtaining a court order overturning the  
12 prior approval of the mine with the Supreme Court of India ruling that the mine could not  
13 proceed without the tribal community's approval.  
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27 From a corporate and market perspective extracting bauxite from a mountain created  
28 wealth, provided jobs and any environmental and social impacts could be addressed through  
29 CSR practices. Thus, the company's mission statement is perfectly legitimate:  
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34 'We believe our strategy and business objectives will harness India's high-quality  
35 wealth of mineral resources at low costs of development, positioning it as a leader  
36 on the global metals and mining map..... Vedanta Limited is a socially  
37 responsible corporation that aspires to transform the lives of people surrounding  
38 its plant site. We firmly believe in making the local people a participant in the  
39 growth process of the organization and works as a facilitator of socio-economic  
40 transformation of rural parts of Orissa' (Vedanta Limited, 2016).  
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43 The problem however lies in 'transforming the lives of people surrounding its  
44 plant site'. The tribal communities, for whom the Niyamgiri mountain carried  
45 significant cultural value and was a source of their livelihood, had a very different  
46 relationship to the 'plant site'. In the words of a tribal member resisting the project:  
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52 'Without Niyamgiri we cannot think of life. If we lose the mountain we will end  
53 up in great trouble. We'll lose our soul. Niyamgiri is our soul. If Niyamgiri goes  
54 our soul will die' (Survival International, 2016).  
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3           These competing and incommensurable worldviews inevitably lead to conflict that  
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5 political CSR deliberative processes cannot accommodate because contrary to the premise of  
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7 the global economic paradigm ‘there can be no universal metric for comparing and  
8  
9 exchanging the real values of nature among different groups of people from different  
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11 cultures, and with vastly different degrees of political and economic power’ (McAfee, 1999:  
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13 133).

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16           Attempts to build ‘local legitimacy’ by mining corporations through deliberative CSR  
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18 processes continue to be driven by their interests. In analyzing efforts of Newmont Mining to  
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20 respond to health hazards and water contamination caused by spillage of waste mercury at  
21  
22 their Yanacocha mine in Peru, Gifford et al. (2010) described how the company hired  
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24 medical specialists to conduct an independent health assessment of communities impacted by  
25  
26 mining. The recommendations of the group included designing and implementing a  
27  
28 ‘comprehensive strategy of social investment in health and development’, designing a  
29  
30 ‘sustainable communication infrastructure to improve healthcare’ and investing in ‘improving  
31  
32 healthcare facilities and equipment’ (Gifford et al., 2010: 307). The question of whether the  
33  
34 mine should continue to expand its operations never entered the deliberative process. It was  
35  
36 only after years of community opposition and direct action that the company finally backed  
37  
38 down from their expansion plans (Perlez and Bergman, 2010). Consensus building,  
39  
40 deliberative processes, public deliberations – key elements of building legitimacy through  
41  
42 political CSR – were simply rejected by communities negatively impacted by mining  
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44 operations because their one key demand, which was to stop the expansion project, could not  
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46 be accommodated in any corporate driven deliberative process. Instead, dissent and activism  
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48 become key defensive weapons, especially when dialogue was structurally biased towards  
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50 powerful actors, as it inevitably is when extractive corporations and states negotiate with  
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52 communities. In the long and troubled history of interactions between the extractive  
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3 industries and Indigenous communities there have been many cases where community  
4 members refused to participate in stakeholder engagement because of the structural biases of  
5 the process privileged certain outcomes while rejecting others (Banerjee, 2011; Young,  
6 2003).

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11 Deliberative processes may be seen as democratic by market and state actors but can  
12 be undemocratic from the perspective of marginalized and dissenting minorities (Clegg and  
13 Haugaard, 2009). It is difficult to see in the face of structural inequalities and hegemonic  
14 accommodation how political CSR and multi-stakeholder initiatives (MSIs) can permit more  
15 ‘democratic control on the public use of corporate power’ (Scherer and Palazzo, 2007: 1109).  
16 Rather, PCSR as a form of global governance is more likely to result in corporate capture of  
17 the public sphere (Gilberthorpe and Rajak, 2017).

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22 At this point it would be useful to clarify what we mean by governance. The  
23 literature on governance is vast and complex spanning a variety of disciplines like political  
24 science, economics, law, international relations, sociology and organization studies and it is  
25 beyond the scope of this paper to provide an overview of the field. While acknowledging  
26 that governance is a ‘code of complex colours’ (Ezzamel and Reed, 2008: 597) our analysis  
27 of governance regimes in the political economy is informed by Foucault’s conceptualization  
28 of governance as a contested terrain of power/knowledge relations (Foucault, 1991). Our  
29 focus is *not* on corporate governance with its internal focus on fiduciary responsibilities of  
30 directors and boards but rather on the governance *of* corporations *for* society. As discussed  
31 earlier, governance through political CSR is a practice of exercising power in the political  
32 economy through a variety of institutions and mechanisms. The discursive capacity of PCSR  
33 sets the parameters of practice for a governance framework by rearranging social relations  
34 designed to generate consent and co-optation while silencing dissent (Rajak, 2011).

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57 We adopt Crouch’s (2005: 20) definition of governance as ‘those mechanisms by  
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3 which the behavioural regularities that constitute institutions are maintained and enforced’.  
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5 Such an institutionalist perspective on governance enables us to examine the exercise of  
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7 power and authority in all its forms, whether through formal state and public ‘hard’  
8  
9 regulation or private, informal ‘soft’ laws such as regulatory standards or codes of conduct  
10  
11 (Ezzamel and Reed, 2008). From this perspective practices of governance involve both  
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13 regulatory and normative mechanisms where MNCs play a key role in influencing  
14  
15 institutional development through their participation in transnational policy networks (Dahan  
16  
17 et al., 2006; Geppert et al., 2006).  
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21 Multi-stakeholder initiatives (MSIs) involving market and civil society actors are key  
22  
23 elements of private governance regimes and a fundamental assumption of political CSR is  
24  
25 that firms’ engagement with state and non-state actors will deliver better social and  
26  
27 environmental outcomes, especially in regions where states fail to govern effectively. For  
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29 example the Extractive Industries Transparency Initiative (EITI), a multi-stakeholder  
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31 initiative involving companies, governments, investors and civil society organizations is a  
32  
33 global standard that promotes revenue transparency and accountability in the extractive  
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35 sector. Member countries are required to disclose information on tax payments, licences,  
36  
37 contracts and other information on resource extraction (EITI, 2016).  
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41 The assumption behind the EITI standard is that promoting disclosure and  
42  
43 transparency in the extractives sector will benefit communities impacted by mining and  
44  
45 reduce conflicts. Unfortunately, available evidence on corporate disclosure indicates  
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47 otherwise – as Brown et al. (2009: 2) found in their analysis of the Global Reporting  
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49 Initiative Sustainability Reporting Guidelines, corporate information disclosure had ‘little  
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51 impact in shifting the balance of power in corporate governance toward civil society’. Since  
52  
53 its launch in 2002, there have been extensive studies about the effectiveness of EITI  
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55 particularly in the conflict regions of Africa (Andrews, 2016; Haufler, 2010; Hilson and  
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3 Maconachie, 2009; Smith et al, 2012). The results are remarkably consistent: EITI has not  
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5 only failed to deliver on its stated goals of better natural resource management, a reduction in  
6  
7 corruption and conflict but in many cases has led to further marginalization of communities  
8  
9 negatively impacted by mining. The voluntary nature of disclosure, variability in the  
10  
11 accuracy of the data provided, differing stakeholder expectations, asymmetrical power  
12  
13 relations, institutional disinterest in policy reform and disparities between mining royalties  
14  
15 and positive developmental outcomes were the main factors that made EITI ineffective in  
16  
17 natural resource governance (Andrews, 2016). EITI served as a legitimating device for  
18  
19 countries and corporations to commit to reform but did not result in delivering reforms or  
20  
21 reducing corruption. Like the GRI Sustainability Reporting Initiative, EITI appears to be a  
22  
23 ‘triumph of form over results, with real power remaining the hands of governments and  
24  
25 corporate elites’ (Haufler, 2010: 69).  
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30 Another industry body is the International Council on Mining and Metals, comprising  
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32 23 mining and metals companies as well as 35 mining associations, which was set up in 2001  
33  
34 ‘to improve sustainable development performance in the mining and metals industry (ICMM,  
35  
36 2013). In their 2013 report ‘*Good practice guide: Indigenous peoples and mining*’, ICCM  
37  
38 recommended that its members ‘respect the rights, interests, special connections to lands and  
39  
40 waters, and perspectives of Indigenous Peoples, where mining projects are to be located on  
41  
42 lands traditionally owned by or under customary use of Indigenous Peoples’ (ICMM, 2013).  
43  
44 The good practice guide also recommends MNCs obtain ‘free, prior and informed consent’  
45  
46 before proceeding with mining projects, which is also a key clause in the 2007 United  
47  
48 Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2010).  
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53 However, these MSIs and good practice guidelines are top down and company  
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55 focused and while providing moral legitimacy to mining companies do little to address the  
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57 needs and aspirations of local communities. For example, in her ethnographic analysis of  
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3 CSR practices of the mining giant Anglo American in South Africa, Rajak (2011: 12) shows  
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5 how moral legitimacy provided by CSR also becomes translated into sources of authority in a  
6  
7 largely privatized system of global governance, enabling the company to ‘transform social  
8  
9 relations and projects to a particular set of corporate interests and values’. Owen and Kemp  
10  
11 (2014: 94) make a similar point in their analysis of free, prior and informed consent arguing  
12  
13 that it focuses primarily on legal and compliance issues without any meaningful engagement  
14  
15 with social, political and cultural contexts.  
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19 A recent report on Indigenous communities and the extractive industries to the United  
20  
21 Nations Human Rights Council found that the ‘business model that still prevails in most  
22  
23 places for the extraction of natural resources within indigenous territories is not one that is  
24  
25 fully conducive to the fulfillment of indigenous peoples’ rights, particularly their self-  
26  
27 determination, proprietary and cultural rights in relation to the affected lands and resources’  
28  
29 (Anaya, 2013: 3). While the report recommended that consent should be sought in all cases it  
30  
31 stated that consent is not a ‘free-standing device of legitimation’ (p. 10) and expressed  
32  
33 concern that ‘many corporations still do not commit to more than complying with national  
34  
35 law and fail to independently conduct the relevant human rights due diligence’ (p. 15). The  
36  
37 report also pointed to ‘significant imbalances of power’ between Indigenous peoples and  
38  
39 mining companies and that there was ‘little systematic attention by States or industry actors  
40  
41 to address these power imbalances’ (p. 17). As we have seen earlier deliberative processes of  
42  
43 PCSR do little to address these power imbalances and the many ongoing conflicts and  
44  
45 resistance movements against resource extraction (see Table 1 for a selective list of ongoing  
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47 conflicts) can be seen as attempts by communities to assert their power.  
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54 INSERT TABLE 1 ABOUT HERE  
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3 Every company listed in Table 1 that is currently involved in conflicts has CSR and  
4 stakeholder engagement policies. Every company involved in conflicts is also a signatory to  
5 the Extractives Industry Transparency Initiative (EITI), which is the gold standard for  
6 responsibility in the mining sector. Twelve of the 26 countries listed in Table 1 are also  
7 signatories to the EITI. Every company is a signatory to the Voluntary Principles on Security  
8 and Human Rights and except Exxon-Mobil and Chevron, every company is a signatory to  
9 the United Nations Global Compact, the world's largest multi-stakeholder CSR initiative  
10 involving 9269 companies and 164 countries (United Nations Global Compact, 2015). If  
11 CSR is the strategy for companies and states to engage with Indigenous communities then  
12 clearly it is not working because despite a host of CSR policies, stakeholder engagement  
13 guides and human rights standards, conflicts are on the rise.

14  
15 Thus, political CSR governance regimes are more about regulation *for* business than  
16 regulation *of* business. The extent and scope of violent mining conflicts all over the world is  
17 an indication of the failure of communicative processes and consequently there is a need to  
18 understand the gaps in governance and CSR that led to these conflicts, how these conflicts  
19 can be resolved and how future conflicts can be prevented (Kolk and Lenfant, 2013).  
20 Multistakeholder initiatives, standards and guidelines along with the increasing presence of  
21 private actors that constitute the governance of resource extraction cannot address authority,  
22 capability and representation gaps, which often leads to conflict (Banerjee, 2014). As we  
23 have seen earlier structural and discursive power asymmetries between local communities  
24 and mining companies mean that the latter group along with their industry associations have  
25 greater authority and capability to participate in governance. In addition, the political agency  
26 of marginalized populations is often contingent on representation by NGOs at distant national  
27 or international forums, which results in a representation gap in governance.

28 Thus, PCSR practices are ways of exercising power in the economy by establishing



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3 and sustaining normative criteria for legitimate processes. PCSR governance regimes may  
4 provide legitimacy to powerful market and state actors but their hegemony does not go  
5 unchallenged as evidenced by the hundreds of ongoing conflicts over resource extraction.  
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7 Conflict, dissent, even violence can be seen as a failure of hegemony because where there is  
8 power there is resistance (Laclau and Mouffe, 1985). If as Clegg and Haugaard (2009) point  
9 out the task of normative theory is to identify criteria for justifying authority, a normative  
10 governance framework would focus more on the needs, values, aspirations, livelihoods and  
11 ways of being in the world of local communities rather than on top down deliberative  
12 processes designed to obtain consent for mining projects. In the next section we develop a  
13 translocal governance framework from this normative standpoint that does not disempower  
14 marginalized communities but may enable genuine transformative arrangements between  
15 mining corporations and the communities in which they operate.  
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### 32 **Democracy from Below: Towards a Translocal Governance Framework**

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34 We believe there are lessons to be learned from the numerous resistance movements  
35 against extractive industries that can provide a preliminary framework for a more progressive  
36 approach to MNC-community relationships. If, as we have argued, deliberative democracy  
37 does not serve the interests of marginalized populations perhaps different conceptualizations  
38 of democracy, such as Mouffe's (1999: 754) notion of 'agonistic pluralism' can offer  
39 alternative insights. A preoccupation with consensus in governance can elide processes of  
40 exclusion, resulting in a displacement of the political – ironically political CSR through its  
41 attempts to explicitly address the political role of corporations leads to a depoliticization of  
42 the public sphere. As Mouffe (1999: 754) argues:  
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54 'Hence the importance of distinguishing between two types of political relations:  
55 one of antagonism between enemies, and one of agonism between adversaries.  
56 We could say the aim of democratic politics is to transform an "antagonism" into  
57 an "agonism". This has important consequences for the way we envisage  
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3 politics. Contrary to the model of ‘deliberative democracy’ the model of  
4 “agonistic pluralism” asserts that the prime task of democratic politics is not to  
5 eliminate passions nor to relegate them to the private sphere in order to render  
6 rational consensus possible, but to mobilise those passions towards the promotion  
7 of democratic designs’.  
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11 Resistance movements reflect the agency of communities in the face of structural  
12 inequalities and corporate and state power and can provide insights on how locally based  
13 democratic governance arrangements can emerge. Recent examples include Newmont  
14 Mining’s decision to suspend expansion plans for a mine in Cerro Quilish in Peru (Perlez and  
15 Bergman 2010); Osisko’s decision to abandon its gold mining project in La Rioja province of  
16 Argentina (BBC, 2016); and a Supreme Court decision in India reversing a prior approval  
17 given to Vedanta Limited to build a bauxite mine in the state of Odisha (Kraemer et al.,  
18 2013). These movements occurred largely outside the formal deliberative processes that  
19 tended to exclude local communities from direct participation.  
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31 Governance gaps arise between the ‘scope of economic forces and actors, and the  
32 capacity of societies to manage their adverse consequences’ thus providing the space for  
33 corporations to commit ‘wrongful acts without adequate sanctioning or reparation’ (Ruggie,  
34 2008: 3). As we have seen earlier, it is naïve to expect that the interests of vulnerable  
35 stakeholders will be served if MNCs fill these governance gaps through their political CSR  
36 initiatives. Marginalized communities that are the most impacted by extractives have little or  
37 no formal authority to negotiate projects at the international or national level. Even when  
38 consultation is legally specified they are conducted in vastly unequal conditions that favor  
39 corporations and their associations leaving communities at a disadvantage. In a study of  
40 mining consultations with Aboriginal communities in Australia, Tatz (2003) found that  
41 communities were generally the ‘receivers of consultation’ once a decision on mining was  
42 taken at the national level. Similar practices can be seen in other locations: in virtually all  
43 cases of ‘consultation’ with local communities the main concern of market and state actors  
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3 was to identify the conditions under which extraction could proceed – royalty payments,  
4 building infrastructure, schools, hospitals, and roads are key aspects of the negotiating  
5 process rather than addressing the fundamental concerns of most Indigenous communities:  
6 whether extraction should proceed at all, and if so what are the social, economic, and  
7 environmental impacts and what other economic development opportunities are available  
8 (Banerjee, 2011)? These incommensurable positions mark the structural limits of  
9 deliberative processes and also become sources of conflict.  
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18 Resistance movements around the world against extractive industries are demands for  
19 community voices to be heard and for more democratic processes of decision-making.  
20 Specifically, marginalized communities need democratic processes where they are neither  
21 excluded due to institutional and political constraints, nor because their concerns, norms and  
22 aspirations are incommensurable with market expectations and state development policies.  
23 Despite assertions that deliberative political CSR processes can accommodate diversity there  
24 are tensions between different local contexts of democratic spaces and the universalism  
25 demanded by a global political system (Lupel, 2009). In order to ensure that the welfare of  
26 vulnerable stakeholders is not diminished there is a need for locally based models of firm-  
27 community relations where communities set the agenda and terms of engagement. Thus, the  
28 normative basis of translocal governance is the economic, social, environmental and cultural  
29 welfare of marginalized communities. In political CSR, the goals of deliberative processes  
30 are inclusion and building consensus among stakeholders whereas for translocal governance  
31 the goals are coexistence, autonomy and self-determination of the community. Table 2  
32 summarized key features of political CSR and translocal governance.  
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3 We propose that translocal governance represents a normative approach that is better  
4 suited to contexts featuring marginalized communities. We do not present this framework as  
5 a substitute for political CSR but as a complementary approach to the governance of resource  
6 extraction. Firms and stakeholders in established regulatory regimes and where power  
7 asymmetries are less acute would do well to continue pursuing deliberative CSR. But in  
8 difficult regulatory environments in which the extractives industries operate it may be  
9 preferable to start from the normative standpoint of marginalized communities instead of  
10 focusing on how corporations can generate moral legitimacy for themselves through  
11 deliberation. Political CSR through its deliberative processes risks reinforcing the legitimacy  
12 of existing institutional arrangements that disempower local communities while silencing  
13 dissent (Young, 2003).  
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27 Translocality refers to the multiplicity of local spaces and actors and their  
28 interrelationships in a global world. The prefix 'trans' refers to the ability of translocal  
29 engagements to 'both transcend territorial locality and change the local spaces from which  
30 they emerge' (Banerjee, 2011: 331). Communities inhabiting these spaces interact with  
31 particular configurations of market, state and civil society actors and form relationships with  
32 local activists, community groups, domestic and international NGOs, and political parties.  
33 These relationships are not stable but shift over time, contingent on the community's agentic  
34 efforts toward self-determination. Translocality can also be seen in the diversity of  
35 Indigenous tribes living in different nation states yet sharing a common relationship with the  
36 land that transcends national borders.  
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49 Translocal governance networks are different from the more vertical nation state  
50 modes of governance (Sassen, 2006), as they do not aim to embed firm-community relations  
51 in implicitly hierarchical decision-making processes. Translocal engagements primarily work  
52 in a lateral fashion: communities make alliances with other communities and local actors and  
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3 firm-community interactions tend to be direct and not mediated by participation in larger  
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5 forums. For instance, communities attempting to assert self-determination over their lands  
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7 within a sovereign nation state are deploying forms of 'ecological nationalisms' as a new  
8  
9 form of political identity (Cederlöf and Sivaramakrishnan, 2005). While these identities may  
10  
11 not challenge the sovereignty of nation states they can lead to new forms of local authority  
12  
13 that can provide some means of self-determination whereby community councils can decide  
14  
15 on any development projects on their lands. Examples can be seen in the emergence of  
16  
17 locally derived organizational forms like *gram sabhas* in India or *los caracoles* in Latin  
18  
19 America that are more representative of community concerns and which are deployed by  
20  
21 communities to negotiate with corporations and governments. The social and political  
22  
23 arrangements of these organizations reflect Indigenous epistemologies and ontologies where  
24  
25 social relations are based on reciprocity and exchange rather than competition (Banerjee,  
26  
27 2011; Mignolo, 2007). They represent forms of democracy from below and are more  
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29 participative than representative or deliberative democracy.  
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34 While translocal networks operate primarily locally they have influences at multiple  
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36 levels regional and national levels. For example, in a conflict over a plant to be built by Tata  
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38 Steel in Kalinganagar in the Indian state of Odisha, 12 tribal members were killed by police  
39  
40 while they were protesting forcible land acquisition and insufficient compensation (Pathi,  
41  
42 2010). The shootings were widely condemned and galvanized mobilization efforts of the  
43  
44 community, which eventually forced the Indian authorities to rethink the land acquisition  
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46 process for development projects and resource extraction leading to the passage of the 'The  
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48 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and  
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50 Resettlement Bill' in August 2013 (Indian Express, 2013).  
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54 Focusing on the translocal as a mode of governance in the global extractive industry  
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56 opens up new spaces for theories and practices of governance in two ways. First, it avoids a  
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3 market/state centric analysis of governance because it acknowledges the existence of multiple  
4  
5 local spaces across different nation states with differing configurations of market, state and  
6  
7 civil society relationships. Second, translocal spaces can create new sources of agency for  
8  
9 communities that choose not to accept extractive mode of development, which is the  
10  
11 hegemonic model at international and national levels. Local alliances can help strengthen the  
12  
13 legitimacy of local concerns thereby giving communities a stronger voice rather than a  
14  
15 tokenistic presence in deliberations. Rather than ask under what conditions can extractive  
16  
17 projects proceed, the question a governance from below framework will ask if extraction  
18  
19 should be allowed in the first place based on the criteria whether the project will enhance  
20  
21 community welfare. In this model, any exploration or pre-extraction activity could proceed  
22  
23 only if local communities consented to the project and where internal or external consultation  
24  
25 processes reflected their cultural and social modes of decision-making. Translocal  
26  
27 governance thus reflects communities' normative authority at the local level to make  
28  
29 decisions about land use without disqualifying arguments, resources and strategies important  
30  
31 to their political success, which tends to occur in deliberative processes where other parties  
32  
33 have hegemonic authority (Scott, 1985).  
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39 Conflicts between MNCs and communities over resource extraction are ultimately  
40  
41 conflicts over competing legitimacies and worldviews. For example, a profound and  
42  
43 challenging aspect of these struggles is Indigenous relationships and attachment to land. If  
44  
45 relationship with the land is the fundamental basis of all conflicts involving Indigenous  
46  
47 communities then that relationship becomes the normative basis for any locally derived  
48  
49 governance framework where the goal is self-determination of communities. Indigenous  
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51 ecology, which reflects thousands of years of Indigenous philosophies of connections with  
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53 land, spirituality, stewardship and sustainability, would be central in this framework, as  
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3 would an explicit recognition of the alternate temporalities of Indigenous communities that  
4 inhabit the same space as other citizens of a state.  
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7 Juxtaposed temporalities and incommensurabilities between market and community  
8 interests over development are evident in conflicts over extractive projects. For instance, in a  
9 conflict in India discussed earlier there were competing worldviews about land where a  
10 mountain is described both as 'the soul' of the tribe by Indigenous communities and as a rich  
11 source of bauxite by a mining company and the Indian state. The temporality of the  
12 corporation and the developmental nation state and its concomitant need for economic  
13 growth sits side-by-side with alternate temporalities of Indigenous communities that inhabit  
14 the same space. Differing temporalities are produced by the differential rate of acceleration of  
15 economic activities in different spaces within the territoriality of the nation state (Sassen,  
16 2006). Indigenous views of land as a bundle of relationships stand in stark contrast with the  
17 market/state nexus view of lands as a bundle of property rights.  
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32 Thus, self-determination cannot be reached without a clear understanding of how  
33 communal property rights can be articulated at international, national and local levels of  
34 decision making for extractive projects. While the extractive industry is aware, and  
35 sometimes even cautiously respectful, of communal and customary property rights, there are  
36 few remedies and innovative solutions that effectively speak to these issues (Banerjee, 2011).  
37 In fact, many typical 'best practice' cases firms effectively recognize community claims, but  
38 in an aggregated individual manner. For example, the corporate concession in many  
39 extractive negotiations is for the project to go ahead, but for affected individuals to be  
40 compensated (Reuters, 2013). Compensation of individuals undermines the communal  
41 relationship between communities and their land and creates conflicts. To prevent conflicts it  
42 is crucially important that communities be able to drive the discussion and agenda over  
43 development and land use. How this can be achieved remains a major challenge and in the  
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3 concluding section we will discuss the implications of our governance framework for theory  
4 and practice.  
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### 9 10 **Implications and Directions for Future Research**

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12 As we have shown deliberative processes of governance through political CSR are  
13 unable to accommodate competing legitimacies that are often the source of conflicts over  
14 resource extraction. The preoccupation to reach consensus through deliberation obscures  
15 processes of domination and disallows spaces of difference and co-existence. Perhaps a  
16 translocal imagination will allow us to overcome the universalization of governance  
17 demanded by political CSR and envision instead a 'pluriverse' of coexisting legitimacies  
18 (Ehrnström-Fuentes, 2016: 433). We readily acknowledge that any such normative  
19 interventionist project would be extremely ambitious, both from the perspective of theory-  
20 building and managerial or political practice. But we believe maintaining the status quo that  
21 is deliberative CSR is problematic as well. We hope to contribute to a more nuanced  
22 understanding of the political dynamics that underlie current conflicts between corporations  
23 and local communities in the extractive sectors by building a more grounded theory of  
24 governance.  
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40 The key challenge is under what conditions can such a framework be implemented?  
41 Why would managers working in MNCs or government officials responsible for economic  
42 development consent to a 'governance from below' approach? Financial losses due to delays  
43 and stoppages, undermining of a MNC's 'social licence to operate' as a result of conflict,  
44 emergence of political organizations championing Indigenous rights could provide the  
45 impetus for a governance approach that allows for a plurality of outcomes. A recent study of  
46 company-community conflicts concluded that the cost of conflicts to the company ranged  
47 from \$20 million per week to \$100 million per year (Franks et al, 2014). In India extractive  
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3 projects representing an investment of £31 billion have been halted by massive protests and  
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5 resistance movements (Banerjee, 2011). In the Philippines, land disputes have put at risk a  
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7 \$5.9 billion investment in a copper and gold mine projected to add 1% to national GDP  
8  
9 (Provost, 2013). These resistance movements can serve as the catalyst for shifts in the  
10  
11 political economy leading to changes in social arrangements about property rights,  
12  
13 governance, authority and accountability, which in turn influence decision-making processes  
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15 and outcomes in corporations. Localized approaches to governance may overcome weak  
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17 processes of law or non-enforcement of regulation, identify potential areas of conflict and  
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19 diffuse them before they erupt.  
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23 Such a shift requires the creation of new governance regimes that protect community  
24  
25 property rights (including the right to say no to extraction in the name of development). The  
26  
27 struggles of communities in the extractive industry are about establishing accountability,  
28  
29 from the state that is supposed to protect their citizenship rights, from market actors that  
30  
31 extract wealth from their lands, and from civil society actors that represent the interests of the  
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33 marginalized. Discourses of responsibility and corporate citizenship obscure the power of  
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35 business in setting the CSR agenda while notions of accountability demand a more explicit  
36  
37 acknowledgement of the effects of asymmetrical power relations (Newell, 2005).  
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41 The normative basis of translocal governance can point the way to 'polyphonic' forms  
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43 of organization (Hazen, 1993), which implies the active presence of a plurality of voices and  
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45 actors from economic, social, cultural, political, juridical and pedagogical spheres. Perhaps  
46  
47 new hybrid organizational forms can emerge that integrate community leadership with  
48  
49 corporate finance and technical staff in order to create organizations that are embedded in a  
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51 system of local values. A translocal imagination would envisage organizations that are built  
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53 on the basis of a nexus of relationships instead of a nexus of contracts, relationships that are  
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55 informed by reciprocity, cooperation and an enduring commitment to land and community  
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3 welfare. These new organizational forms, where marginalized voices are listened to instead  
4 of being 'receivers of consultation' could then be buttressed by a governance framework with  
5 regulatory features at the national level as well as 'community driven regulation' that  
6  
7 promotes corporate and state accountability at local levels (O'Rourke, 2004).  
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11 We call for a more critical agenda for CSR and governance research and point to three  
12 directions for future research. First, there is a need for empirical data that can illuminate both  
13 political CSR and our formulation of translocal governance. Case studies of the deliberative  
14 processes of top down political CSR should be juxtaposed with ethnographies of anti-mining  
15 resistance movements. These narratives will yield valuable insights into the tensions,  
16 contradictions and opportunities that arise from corporate activity in difficult regulatory  
17 situations and may show how 'the respective strengths of deliberative and radical  
18 formulations of democracy may complement each other without demanding that they can be  
19 fused' (Edward and Willmott, 2008: 418). Second, there is a need to understand from a  
20 positive and normative perspective how corporations do business with repressive state  
21 regimes. If states cannot be trusted to fairly mediate firm-community conflict, where could  
22 firms and communities turn to for intercession or arbitration? Under what conditions should  
23 firms deal directly with communities that will be impacted? How should multinational  
24 corporations deal with the state and the community when both actors have legitimate claims  
25 to the land? The CSR literature has never engaged with these questions in any depth and  
26 there is a need for more research on this topic. Finally, our translocal governance framework  
27 has implications for theory development in corporate governance based on social impacts of  
28 corporate activity and the growing importance of multiple stakeholders (Tihanyi et al., 2014).  
29 Such a political model of corporate governance goes beyond prioritizing the preferences of  
30 investors and includes corporate provision of 'political goods' such as human rights by  
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3 giving voting rights to community groups negatively impacted by corporate activity (Whelan,  
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5 2012).

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7 A final point: it is important to note in suggesting a translocal approach to the  
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9 governance of political CSR we are not privileging the local in an unproblematic way.  
10  
11 Rather, the same reflexivity that we used to problematize CSR is required to investigate new  
12  
13 relations of power that arise from a translocal approach. As Ballard and Banks (2003) point  
14  
15 out the notion of 'community' is contested in terms of membership, inclusions and  
16  
17 exclusions, which can lead to inequalities and marginalization within communities. It would  
18  
19 also be wise to heed Ezzamel and Reed's (2008) warning about how potentially  
20  
21 transformative governance mechanisms can have unintended consequences that can  
22  
23 disadvantage groups they were originally meant to serve. More than 50 years ago the  
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25 historian Laurence Veysey wrote: 'shared governance has always been a useful device  
26  
27 whereby administrative leaders could sound out opinion, detect discontent so as to better  
28  
29 cope with it, and further a posture of official solidarity by giving everyone parliamentary  
30  
31 "rights"' (Veysey, 1965: 305). As we have seen contemporary forms of CSR suffers from  
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33 the same weakness. In this paper we have attempted to address this weakness by providing a  
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35 more grounded approach that can complement political CSR with a clear normative goal:  
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37 that governance is not only for the governors but should and can be shared between those  
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39 who govern and those that are governed.  
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**Table 1. Selected List of Conflicts involving the Extractives Industries and Indigenous Peoples.**

Company Name	Number of on going conflicts	Countries involved
Royal Dutch Shell <sup>^</sup> + <sup>#</sup> and Shell Petroleum Development Company	66	Algeria, Brazil, Canada, Ecuador, Nigeria*, Tunisia
Chevron Corporation <sup>^</sup> #	22	Angola, Cameroon*, Canada, Chad*, Ecuador, Kazakhstan*
Rio Tinto <sup>^</sup> + <sup>#</sup>	19	Brazil, Chile, Colombia**, Indonesia, Malaysia, Mozambique*, Paraguay
Vale <sup>^</sup> + #	19	Brazil, Mozambique*, Peru*, Philippines**
Anglo Gold Ashanti <sup>^</sup> + <sup>#</sup>	15	Colombia**
Exxon Mobil Corporation <sup>^</sup> #	14	Angola, Cameroon*, Canada, Chad*, Guinea*, Kazakhstan*, Nigeria*, Papua New Guinea**,
BHP Billiton <sup>^</sup> + <sup>#</sup>	13	Botswana, Brazil, Chile, Colombia**, Peru, Philippines**
Barrick Gold Corporation <sup>^</sup> + <sup>#</sup>	12	Argentina, Chile, Peru, Philippines**, Tanzania*,
Glencore <sup>^</sup> + <sup>#</sup>	10	Argentina, Colombia**, Democratic Republic of Congo*, Peru, Philippines, South Africa
Anglo American <sup>^</sup> + <sup>#</sup>	9	Chile, Colombia**, Peru

**Source (EJOLT, 2015).**

<sup>^</sup> Member of the Extractive Industries Transparency Initiative Standard

+ Signatory to the United Nations Global Compact

# Signatory to the Voluntary Principles on Security and Human Rights

\* Compliant with Extractive Industries Transparency Initiative Standard

\*\* Implementing but not yet compliant with Extractive Industries Transparency Initiative Standard.

**Table 2. Transnational Political CSR and Translocal Governance**

	<b>Transnational Political CSR</b>	<b>Translocal Governance</b>
Normative goal	Consensus	Self-determination; coexistence; autonomy
Main political actor	State, civil society organizations and corporations	State, community councils
Authority	State, MSIs	State and community councils
Preferred economic outcomes	Compensation, royalties	Community driven partnerships, rights to livelihood
Preferred negotiating outcomes	Consensus	Consensus and dissent; veto rights over developmental projects
Sources of political rights & identity	Universal human rights, citizen of nation state, global civil society	Indigenous rights Ecological nationalisms
Source of legitimacy	Transactional: quality of communicative processes; voluntary standards	Indigenous ecology; livelihoods
Nature of representation	Represented by NGOs to information-gathering & rule-making bodies, as well as to media	Initiating partner of governance bodies, with full, direct participation.
Ideologies	Social inclusion	Social justice
Possible outcomes	Hegemonic accommodation	Disruption; dissent
Property rights	Liberal private property regimes; bundle of property rights	Communal property; bundle of relationships
Political networks	Hierarchical (with lateral features)	Lateral (with hierarchical features)
Temporality	Linear and progressive	Juxtaposed temporalities.